

8

LUC-450 / Buskens 6-1-1-1-2

Remarks

Reconsideration of the application and allowance of all claims pending are respectfully requested. Claims 1-9 and 11-22 are pending.

Claim Rejections - 35 U.S.C. § 101

Claims 1-9, 11-15, and 21-22 were rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. The Office Action states that "computer-readable signal-bearing media" is not considered patentable subject matter. Applicants note that similar claim language appears in US Patent 7,072,824 (claims 11-17), US Patent 6,904,596 (claims 14-17), and US Patent 6,754,771 (claims 14-20), and other issued patents.

Applicants respectfully request withdrawal of the § 101 rejections.

Claim Rejections - 35 U.S.C. § 112

Claims 1-9 and 11-22 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement and for allegedly failing to comply with the enablement requirement. These rejections are respectfully, but most strenuously, traversed.

Applicants believe the present claim language to be sufficiently clear. Examples of "legacy" can be found in US Patent 7,406,682 (claim 1: "legacy software architecture"), US Patent 7,409,702 (claim 1: "legacy encryption"), US Patent 7,431,650 (claim 25: "legacy player tracking system"), US Patent 7,162,014 (claim 1: "legacy message systems"), US Patent 6,233,543 (claim 1: "legacy host applications"), and other issued patents.

Withdrawal of the § 112 rejections is therefore respectfully requested.

Claim Rejections - 35 U.S.C. § 102

Claims 1, 16, and 21 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Baughman (U.S. Patent No. 6,408,399). Claims 1-9 and 11-22 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Anderson (U.S. Patent App. Pub. No. 2003/0058796). These rejections are respectfully, but most strenuously, traversed.

Applicants respectfully submit that the Office Action's citations to the applied references, with or without modification or combination, assuming, *arguendo*, that the modification or combination of the Office Action's citations to the applied references is proper, do not teach or suggest the first manager component of the legacy management system and the second manager component, that comprises high availability services system software, that are configured to concurrently share management responsibility for the software and/or hardware entity, as recited in applicants' independent claim 1.

For explanatory purposes, applicants discuss herein one or more differences between the claimed invention and the Office Action's citations to Baughman and Anderson. This discussion, however, is in no way meant to acquiesce in any characterization that one or more parts of the Office Action's citations to Baughman or Anderson correspond to the claimed invention.

Baughman (column 2, lines 23-29) discloses:

In the active state, the applications (software) residing on the computer are running and ready to accept and process data. In the standby state, certain applications are running, however, data is not accepted or processed. A primary function of a computer in the standby state is to monitor the other computers in the system and itself, and to assume an active state when necessary.

Baughman discloses that the computer in the standby state (e.g., computer 11) does not accept or process data. It is unclear how a computer that does not accept or process data can

perform management operations. The standby computer monitors the other computers (e.g., computer 10) and itself. Baughman fails to disclose that both the active computer and the standby computer perform management operations on a software and/or hardware entity.

Baughman (column 5, lines 18-23) discloses:

The system manager 120 and 130 also checks for and corrects errors, such as both computers 10 and 11 assuming an active state, no computer 10 or 11 in an active state, the active computer unable to access the shared disks 12 and 13, and a non-active computer with access to the shared disks 12 and 13.

Baughman discloses that an instance where both computers 10 and 11 have access to the shared disks is an error condition. Accordingly, the computers are not configured to concurrently share management, but to instead take full control. Baughman teaches away from concurrent shared management responsibility of the disks.

The Office Action (page 18, section 3) states:

“One interpretation of the meaning of concurrent is acting in conjunction, or cooperating. Under this interpretation, an active/standby setup fulfills a cooperating configuration.”

The Office Action's discussion of “concurrent” has omitted a portion of the claim limitation. Claim 1 recites “concurrently share”. The active and standby components disclosed by Baughman do not concurrently share management responsibility and instead take full control at alternate times, as discussed above. Baughman fails to disclose the first manager component of the legacy management system and the second manager component, that comprises high availability services system software, that are configured to concurrently share management responsibility for the software and/or hardware entity.

Baughman also fails to make any mention of a management component of a legacy management system. In contrast, Baughman discloses that the second computer replicates the processing capabilities of the active computer (col. 1, lines 24-36).

Accordingly, the Office Action's citation to Baughman fails to satisfy at least one of the limitations recited in applicants' independent claim 1.

Anderson (paragraph 19) discloses:

... The signaling manager receives its working instructions from the traffic manager and from the provisioning manager for each packet switch, router and interface access device of the packet network, which, among other things, enables the signaling manager to set up and dynamically change virtual circuits, paths and channels on a real-time basis...

Anderson discloses that the signaling manager receives instructions from the traffic manager and the provisioning manager. Accordingly, the signaling manager does not share management responsibility with either the traffic manager and provisioning manager but merely acts upon their instruction as an intermediary. Anderson fails to disclose that any of the signaling manager, the traffic manager, and the provisioning manager are from a legacy management system. Anderson fails to disclose the first manager component of the legacy management system and the second manager component, that comprises high availability services system software, that are configured to concurrently share management responsibility for the software and/or hardware entity.

Accordingly, the Office Action's citation to Anderson fails to satisfy at least one of the limitations recited in applicants' independent claim 1.

The Office Action's citations to Baughman and Anderson all fail to meet at least one of applicants' claimed features. For example, there is no teaching or suggestion in the Office Action's citations to Baughman and Anderson of the first manager component and the second manager component that are configured to concurrently share management responsibility for the software and/or hardware entity, as recited in applicants' independent claim 1.

In addition, Anderson fails to make any mention of a "sequence" for management operations. The Office Action's citation to Anderson discloses (para. 19):

For optimum network performance, it is necessary to decide how to configure the logical networks on top of the physical network and how to efficiently manage and allocate the physical network resources among the logical networks and to balance traffic loading.

However, Anderson fails to make any mention of how to configure the physical network.

The Office Action suggests that "traffic loading" is equivalent to a management responsibility as "starting or initializing a traffic load". However, Anderson fails to make any mention of starting or initializing a traffic load. Accordingly, the Office Action's argument is simply hindsight reconstruction, which is impermissible.

For all the reasons presented above with reference to claim 1, claims 1, 16, and 21 are believed neither anticipated nor obvious over the art of record. The corresponding dependent claims are believed allowable for the same reasons as independent claims 1, 16, and 21, as well as for their own additional characterizations.

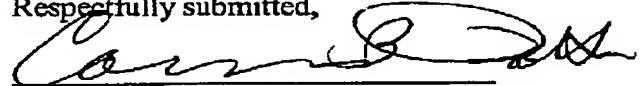
Withdrawal of the § 102 rejections is therefore respectfully requested.

13

LUC-450 / Buskens 6-1-1-2

In view of the above amendments and remarks, allowance of all claims pending is respectfully requested. If a telephone conference would be of assistance in advancing the prosecution of this application, the Examiner is invited to call applicants' attorney.

Respectfully submitted,



Carmen B. Patti
Attorney for Applicants
Reg. No. 26,784

Dated: October 20, 2008

PATTI, HEWITT & AREZINA, LLC
Customer Number 47382